

To be vital a movement must be spontaneous, and there are few signs of popular clamour for Lord Beaverbrook's scheme.

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Still, supposing their faith to be justified, what can the new leaders hope to do? At the very best they cannot hope to win more than fifty or sixty seats. Assuming they get these—it is a big assumption—where will they get them from? According to Lord Rothermere they are to concentrate mainly on the south. That is where Conservative strength is greatest. They can only hope to reap votes where there is dissatisfaction with the official Conservative policy for not going far and fast enough: in other words, their chief hope lies in splitting the Conservative Party. If they can detach not only votes but candidates from Conservatism that will improve their prospects. The more successfully they split Conservatism the more successful they will be. Yes, but successful in what? *In letting Labour in.*

That is the ironic paradox of the new situation. Lord Beaverbrook and Lord Rothermere are never tired of reiterating the perils that would await the country if it were to come under the control of Socialism in power as well as office. By their new policy they are taking the shortest cut to bringing their nightmares true. The United Empire Party could make no real impression on the Socialist majorities of the North. The Liberals it would, if anything, help: the one cry that has any force left in rallying the demoralized ranks of Liberalism to-day is the cry of taxes on food. Within the last eight years the thing has been tried and brought the party that tried it to disaster. If it is tried again it will bring the same party to disaster, and to disaster of a magnitude proportionate to its own success. Do Lords Beaverbrook and Rothermere (who are presumably Conservatives) want to see Socialism safely in the saddle for anything from the next five to the next fifteen years? There is one sure way of doing it, and that is by splitting the Conservative Party or splitting the Conservative vote. At their most consolidated the forces of Conservatism will have a hard struggle for the next few years to overtake the pace Labour is making in the constituencies. Divided, even a little, they can have no hope of success.

On its present showing Lord Beaverbrook's new party seems the surest means of entrenching the Socialists in power. It has even managed to create an impression, possibly quite erroneously, that it is anti-Baldwin first and pro-Empire only second.

MURDER AND CAPITAL PUNISHMENT

THE Select Committee which Mr. Clynes set up after the debate on Capital Punishment last autumn has heard some interesting evidence, and there now seems to be some chance of an agreed project of reform. It is hardly likely to include the abolition of capital punishment. The retributive conception of punishment is now abandoned by nearly all of us, and clearly the death penalty does not reform, but the belief that

it acts as a deterrent is hard to shake. It is held strongly, for example, by Dr. Methven, the very humane Governor of Maidstone Prison, who gave evidence this week. He believes that if the death penalty were abolished for killing, more thieves would arm themselves. The risk of a longer sentence if they were caught would not outweigh the improved chance of escape as does the risk of execution.

One is bound to respect the opinion of those who have opportunities of observing the criminal mind. After all, is not the objection to capital punishment less one of theory than of the particular instance? There are some murders so heinous that everyone is prepared to forget his principled objections to capital punishment; on the other hand, there are few of us, however strongly we may believe in the retention of the death sentence, who do not revolt against its infliction in particular cases. If that be so, the real point at issue is not whether the death penalty should be retained or abolished, but whether we ought not to make changes in the law of homicide: retain the death penalty for murder that is most foul, and abolish it for murder that is less foul.

Here no question of theory arises, for the law, by its distinction between murder and manslaughter, already acknowledges that in killing there are degrees of wickedness and of danger to society. Dr. Methven proposes that we should extend our definition of manslaughter so as to make it include certain forms of homicide that are now murder. But it would be a pity to blur the clear distinction that now exists between murder and manslaughter. Murder is killing with malice aforethought; manslaughter is killing without malice aforethought, and the legal distinction corresponds to a clear moral difference. Instead of extending the definition of manslaughter, it would be better to distinguish between different degrees of murder, for even where there has been premeditation, all killing is not equally heinous. It will be objected, perhaps, that the law already recognizes that through the prerogative of mercy in the Crown. In the days when you could be hanged for stealing more than five shillings from a person, the exercise of this prerogative was one of the most serious duties of the Crown. It is one of the good things to be said for George IV that he would never, if he could help it, let anyone be hanged for anything but murder. But to magnify the office of mercy is to detract from the respect that is due to law and justice.

At present, the sentence of death has to be passed in many cases in which everyone knows that it will not be carried out, and that weakens the majesty of justice. Moreover, juries acquire the bad habit of anticipating the prerogative of mercy and finding against the facts. There are old cases in which, to prevent the death sentence, juries found that stolen property worth hundreds of pounds was worth less than five shillings. In Lancashire to-day it is not easy to get juries to convict in cases of abortion. Wherever there is a gap between the state of the law and of the public conscience, justice is apt to become uncertain and capricious. We need periodic revision of our criminal code so as to bring conscience and the law into accord, and the agitation against capital punishment is probably a sign less

of principled objection to the death penalty in all cases, much more of revulsion against both sentence and execution in some cases. Certain changes in the law of murder are becoming dangerously overdue.

Murder can be premeditated without provocation, premeditated with provocation, premeditated and agreed between the homicide and his victim (as, for example, in suicide pacts or in fatal abortion); or, though premeditated, it may have been committed under such conditions of acute distress that some of its guilt was purged (as, for example, with an unmarried mother who kills her child). In all these cases the judge has now no alternative but to pass the sentence of death if the jury returns a verdict of Guilty. The simplest change of the law would be to confine this obligation to murder of the first degree—premeditated and without provocation. This would retain the death penalty for the foulest murder and for murder done in the commission of dangerous felonies such as robbery with violence, burglary or housebreaking. In some examples, even of murder of the first degree, there may be a case for the exercise of mercy, but none (except under a theory of punishment which is not generally accepted) against the passing of the death sentence.

In all cases of murder, it should be the duty of the jury to find to which of the categories into which murder is divided by the new law the murder which it has tried belongs. In all but the first category of murder in the first degree, the judge should be given a certain latitude in the sentence that he pronounces. Whether he should be allowed to pronounce the sentence of death where the jury has brought in a verdict of guilty of murder but not of the first degree, or whether the death sentence should be abolished by law in these cases is, after all, a matter of detail rather than of principle. The existence of the Court of Criminal Appeal, to which all capital sentences now go almost as a matter of course, has made possible a latitude that without it might have been most dangerous.

THE COMEDY OF WESTMINSTER

House of Commons, Thursday

NOTHING is more unpleasant than the hours before an illness declares itself. Those who remember in their childish days the horrible discomfort of "sickening for measles" and the subsequent relief when, spotted but at ease, they retired into nursery quarantine, will appreciate the satisfaction with which Conservative members greeted the announcement that Lord Beaverbrook has formed a "new Party." The Empire Crusade carried on inside the Conservative ranks might have become a disintegrating force: the formation by two Fleet Street Peers of a new party in the State is unadulterated comedy. It will be interesting to see how long it survives. There was not so long ago a National Party. "Where is dat barty now?" Only political archaeologists recollect even the names of its leaders. Meanwhile Lords Beaverbrook and Rothermere deserve our thanks for helping to enliven a dull week.

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Dull as it has been, it produced, nevertheless, one interesting and important debate. On Thursday the amalgamation proposals introduced into the Coal Mines

Bill received a second reading discussion. As a debate it was one-sided. The adherents of compulsory amalgamation have a case of which little could be made. Mr. Graham introduced his new clauses in a speech so thin and chilly as to give support to the rumour that the deal with Mr. Lloyd George had been done by the Prime Minister over the head and without the knowledge of his lieutenant. Sir Herbert Samuel also confined himself to the vaguest asseverations as to the economic merits of amalgamation of mines. Sir Robert Horne exposed with great power and knowledge how unsubstantial were the foundations for the belief in its virtues. Mr. Runciman was not less damaging, while Major Colville and Mr. Osbert Peake, two new members who are a most valuable addition to the Conservative forces, helped materially to complete the exposure. It was remarkable that from first to last there was no attempt made by supporters to put forward even the most general estimate of the financial benefits to be derived by the industry. The incapacity of a large assembly to deal with practical business matters in a practical and business-like spirit could not have been more clearly exemplified. It is safe to say that, on the evidence supplied, no one who voted for the scheme, had he been dealing in private with his own affairs, would have agreed to the amalgamation of two coffee-stalls.

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Friday, which brings with it Private Members' Bills, was devoted to a Socialist Bill to enable Local Authorities to carry on any business within their areas which can be carried on by a company. The debate would not have been more noteworthy than those of other Fridays, had it not been for a quite excellent speech by Sir Kingsley Wood, who is as effective in opposition as he was efficient in office. His chaff of the co-operative members for supporting a Bill which, if passed, would be the prime enemy of their own movement, could not have been bettered. But the co-operative support of Socialist proposals is an unfathomable mystery, and, though the Government benches clearly wanted to see the Bill talked out, when a division was insisted on by the Unionists, Co-operators and Socialists alike rallied to the support of a Bill which everyone knows is unworkable.

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Mental Treatment and Road Transport are both important subjects, but they did not raise a ripple of interest in the House on Monday and Tuesday, and the discussion was left to the respective experts who, so far as the unregenerate could see by an occasional visit to the Chamber, were carrying on their oratorical evolutions at goose-step pace.

Mr. Herbert Morrison was admirable in introducing the Road Transport Bill. He is the ablest of the younger Ministers, has made his way at once into the respect of the House and gives on the Government Bench the pleasant impression of a clear head, much practical efficiency, and, most particularly, an absence of that vanity to which most of his colleagues are martyrs.

He pleased the House, too, on Wednesday when he wound up the debate on the Charing Cross Bridge Bill, which, after his speech, passed its second reading by a large majority. Nor was his the only good speech that day. For in a private member's motion on the effect of taxation upon industry, both the mover and the seconder, Mr. Henry Mond and Mr. Boothby, made speeches which showed a wide range of thought. So good were they, indeed, that the Labour back benches listened almost with patience to the discussion and analysis of economic principles and ideas.

FIRST CITIZEN